one into error. Of course, some limitation must be put upon the words 'personal concern.' The concern must be such as that which existed in the cases cited and others like unto them; i. e., immediate and pecuniary.

"If, then, the views here advanced are sound, a full expression of the thought of the statute as to the character of the promise covered by it would be somewhat like this: It is a promise to answer for the debt of another (i. e., to pay if he does not), made to the creditor by one who has no personal concern in the debt, the answering therefor to be out of his own estate.

Sales—Breach of Contract for Sale of "Season's Output."—In Kenan *v.* Yorkville Cotton Oil Co., 260 Fed. 28, the Circuit Court of Appeals for the Fourth Circuit, held that a contract by a cotton seed oil mill for the sale of its "season's output" was not violated by the closing of its mill before the end of the season for good and sufficient reasons not connected with the contract. The court said:

"There is little dispute about the facts, and the case turns on the construction of the contract. Plaintiff contends that it obligated defendant to operate its mill during the season named, and that raises the decisive question. It is well settled that such a contract as is here considered carries no guaranty that the estimated quantity will be delivered. The promise of the seller is not absolute. It is essentially a pledge of good faith; and so the courts have held. In Brawley *v.* United States, 96 U. S. 168, 171 (24 L. Ed. 622), a case frequently cited, it is said: 'Where a contract is made to sell or furnish certain goods identified by reference to independent circumstances, such as an entire lot deposited in a certain warehouse, or all that may be manufactured by the vendor in a certain establishment, or that may be shipped by his agent or correspondent in certain vessels, and the quantity is named with the qualification of "about," or "more or less," or words of like import, the contract applies to the specific lot; and the naming of the quantity is not regarded as in the nature of a warranty, but only as an estimate of the probable amount, in reference to which good faith is all that is required of the party making it.'

"Among numerous cases to the same effect are Pfann & Co. *v.* Lumber Co., 194 Fed. 71, 114 C. C. A. 89; Ramey Lumber Co *v.* Schroeder Lumber Co., 237 Fed. 39, 150 C. C. A. 241; Wemple *v.* Stewart, 22 Barb. (N. Y.) 154; Drake *v.* Vorse, 52 Iowa, 417, 3 N. W. 465; McKeever, Cook & Co. *v.* Canonsburg Iron Co., 138 Pa. 189, 16 Atl. 97, 20 Atl. 938; Loeb *v.* Winnsboro Cotton Oil Co. (Tex. Civ. App.), 93 S. W 515; McIntyre *v.* Jackson, 165 Ala. 271, 51 South. 767, 138 Am. St. Rep. 66, and cases cited in 35 Cyc. 208. Very much in point also is the English case of Burton *v.* Great Northern Ry. Co., 9 Exchequer, 507. In that case Burton had a contract for the

cartage between Hatfield and Ware of such merchandise as the railway company might present to him for that purpose; that is, as we understand, such merchandise as the company had occasion to transport between the points named, and it was evidently in contemplation that merchandise for cartage would be furnished during the year covered by the contract and the optional period of its renewal. Some six months later the railway company leased its line to another road and agreed not to carry between Hatfield and Ware, with the result that the cartage service contracted for was no longer required. But the court held that the company was not bound to operate its line, and therefore could terminate Burton's contract without liability to him. The principle upon which this decision rests applies with controlling force, as we think, to the facts of the instant case.

"This identical contract was before the Supreme Court of South Carolina, as above stated, and that court held that defendant was not bound to operate its mill in order to make the estimated quantity of linters, and that its obligation was discharged by the delivery to plaintiff of all the linters actually produced. The court says: 'The buyer is bound to take the output, because he agreed to that. The seller is not bound to furnish more than the "output," because he has only agreed to furnish that much.'

"A similar contract, to which plaintiff was a party, was passed upon by the Supreme Court of Alabama, Kenan et al. *v.* Home Fertilizer & Cotton Oil Co. (Ala.), 79 South. 367, and that court said: 'It is not possible to imply an obligation to make an article from an assumption of the limited obligation to sell not a definite number of an article, but simply merely what the seller makes. * * * The seller having acted upon the buyer's promise to take his output, the buyer becomes bound to take what the seller has made, in reliance upon the buyer's promise, and the seller becomes likewise bound to deliver the output of his plant.'

"It is true that the Court of Appeals of Georgia overruled the demurrer to a complaint of plaintiff, based on alleged breach of a like contract for the purchase of linters. Dawson Cotton Oil Co. *v.* Kenan, McKay & Speir, 21 Ga. App. 688, 94 S. E. 1037. But the complaint in that action alleged that the Dawson Company shut down its mill wrongfully and in bad faith, that is, for the purpose of evading its contract obligations, and that allegation was necessarily assumed to be true on demurrer. Nevertheless the court took occasion to say: 'Of course, had the defendant discontinued the operation of its mill for some providential cause, or for any cause or causes not in any wise attributable to it, a delivery on the part of the mill of its output up to the time it ceased to operate would be all that the law would require.'

"And it cited from Brawley *v.* United States, supra, the para-

graph above quoted, emphasizing by italics the final clause that the naming of the quantity is not in the nature of a warranty, but only an estimate of probable amount, 'in reference to which good faith is all that is required of the party making it.'

"The complaint in this suit contains a similar allegation of bad faith, but the record is searched in vain for any evidence to support it. On the contrary, it is shown by convincing and undisputed testimony that persistent efforts were made to continue the business. The mill was shut down solely for lack of money to keep it going. It appears that defendant had little or no working capital, that its own borrowing power was exhausted, and that it had no assets with which to secure advances. In previous years the necessary funds had been procured on notes indorsed by the directors; but this year the directors refused to indorse, as they had the undoubted right to do, and defendant was destitute of other resource. It could not go on without ready money and its inability to borrow is admitted. In this helpless condition it is not perceived that it could do otherwise than suspend operations, and there is nothing of record to indicate that it did not act in good faith in closing down its mill. This being so, we are clearly of opinion that plantiff failed to make out a cause of action, and the learned trial judge was therefore right in directing a verdict for defendant."

MISCELLANY.

The Law and the Movies.—To the discriminating observer it often appears that the motion picture is an institution for the dissemination of ignorance. In no line is this more apparent than when legal points are in question. Why should it be that a producer who will spare no expense to overload a drawing room scene with the most costly furniture in the most atrocious taste will not take the very slight precaution of finding out whether or not his law is sound? But no; to touch the law is to misrepresent it, on the silver screen.

The law of divorce is quite a favorite with the movie maker. He takes it as he finds it in the newspapers or in the chatter of his friends. Conspiracy to defeat justice is common with his heroes and heroines. "I will let you get a divorce," says the self-sacrificing hero or heroine, believing that by so doing he or she is conferring a favor on her or him, who in reality still loves him or her. Other phases of the law of domestic relations come in for similar informal treatment. Here is a mussed-up relationship that baffles comparison.

The picture is called "Less Than Kin." The old man has a shiftless son who has disappeared in the wilds of South America, and